

HIGHLAND COUNCIL ROSS AND CROMARTY EAST LOCAL PLAN INQUIRY

NOTE OF MATTERS AGREED AT OR ARISING FROM BUSINESS MEETING HELD ON 2 NOVEMBER 2004 AT COUNCIL HEADQUARTERS, INVERNESS

Present

Trevor Croft, Reporter and John Watt, Head of Administration, Scottish Executive Inquiry Reporters Unit
Alan Ogilvie, Principle Planner, and Brian Mackenzie, Planner, Highland Council

Introduction

1. The Council has appointed Mr Croft to conduct a public local inquiry into objections made, and not withdrawn, to the Ross and Cromarty East Local Plan.
2. The Council has appointed Mrs Denise Stott as Interim Programme Officer until 31 March 2005. It is hoped that this appointment will be confirmed for the duration of the inquiry. She will work directly to the Reporter, acting as the initial point of contact for all parties.
3. The business meeting was arranged to discuss neutral procedural and administrative matters relating to the inquiry.

Code of Practice for Local Plan Inquiries

4. Local Plan Inquiries are not covered by the Inquiry procedures Rules. The non-statutory advisory Code of Practice's general principles remain sound, but inquiry practice has evolved since 1996 when the Code was published. The Reporter wanted to encourage informal hearings and round table sessions, where appropriate, rather than more formal inquiry sessions. This will be discussed at the pre-inquiry meeting.

The local plan, proposed changes, and objections received

5. The Council representatives explained that the consultation draft plan was published in May 2002. In October 2003 the Highland Planning Committee agreed changes and authorised the publication of a deposit draft, incorporating changes following consultation. There was an extended period for objections allowing for the Christmas period. Since then the formal objections have been considered by the council, and Mr Croft was provided with a summary list, setting out key subject area matters that will potentially arise at the LPI. The finalised plan will be published on 4 February 2005, or thereby, with a six week period for objections.
6. The inquiry will therefore consider potentially 3 sets of objections, which will be drawn together, setting out all outstanding objections and its responses to them, after March 2005.
7. It is for the Council to decide if objections have been duly made. If the Council wishes the views of supporters of the plan to be taken into account, it could include the

relevant letters in its own documents or call the parties concerned as witnesses (at inquiry sessions). Objections that have been 'conditionally withdrawn' (provided a proposed change is confirmed) still require to be considered by the Reporter, unless the objection is formally withdrawn.

8. All objections must be given a unique reference number or code. It might be helpful if this referred to the version of the plan (02, 03, or 05) and the chapter of the plan to which it relates, as well as the method by which the objector wished it to be dealt, and whether it had been conditionally withdrawn.

Other considerations

9. It is not anticipated that any major issues will arise that will create difficulties along side the inquiry process, but the Reporter and the Council would not be in favour of any planning appeals or called-in planning applications being considered concurrently, or in tandem, with the local plan inquiry.

Options for handling objections where objector wishes to be heard

10. The Reporter stated that he hoped that most objections where the objector wishes to be heard will be dealt with by way of (informal) hearings. Round table sessions may be appropriate where a number of objectors are concerned with related (either policy or site-specific) issues, but have differing views on these issues, and where all of the objectors who wish to be heard are content to proceed on this basis. The more formal public local inquiry procedure is likely to be appropriate for a few complex matters where it is important that evidence is tested by cross-examination. Where objectors have a common interest it would be helpful for a spokesperson(s) to present their case.

11. The council was agreeable to the principle of this procedure, which has potential to save inquiry time, and lead to a more conducive atmosphere for local objectors.

Handling written submissions objections

12. The Council wishes the Reporter to deal with all objections, including those proceeding by way of written submissions.

13. Where a matter is being dealt with by written submissions, it will not be discussed at the inquiry. If the Reporter needs further information he will seek this in writing. However where an issue is to be dealt with at the inquiry (by way of a hearing, round table session or inquiry session) it may be helpful for the names of objectors who have raised the same issue to appear, for information, on the inquiry programme.

Pre-inquiry meeting

14. A pre-inquiry meeting (PIM) will be arranged as soon as possible after the publication of the deposit draft. A provisional date was agreed for Tuesday 22 March 2005 at 10.0 a.m., in order that the LPI can be held before the main holiday period. The Council will investigate possible venues, including the Ross County football academy building. By the time of the

PIM the council should have a draft document setting out all outstanding objections and its responses to them, and a draft programme for the inquiry should be drawn up.

15. The agenda for the PIM will include: the draft programme for the inquiry; identification of possible core documents, pre-inquiry exchanges and inquiry procedures (for hearings, round table sessions, and formal inquiry sessions).

Arrangements and deadlines for lodging of material in run up to inquiry

16. The Reporter suggested that he set out proposed dates for handling material in the run up to the inquiry, in the note of the meeting, and the following, or something similar, might be appropriate, to be proposed at the PIM:

(1) initial information about how objections are to be handled

- 2 weeks after PIM (5 April 2005) – deadline for objectors to confirm if they wish to be heard, failing which it will generally be assumed that they are content for objections to be dealt with by written submissions.
- 3 weeks after PIM (12 April 2005) – deadline for Council to confirm if, exceptionally, it wishes any objections which objectors are content to be dealt with by written submissions, to be dealt with orally.
- 4 weeks after PIM (19 April 2005) – deadline for objectors whose objections are to be heard to submit '*statement of participation*'. This might be a pro-forma provided by the Council. It would confirm whether the objector was content to have the objection dealt with by a hearing, and if so, who would be present to speak to the objection, those other objectors (if any) with whom the objector would be co-operating, any documents to which reference would be made, and any dates on which the spokesperson(s) would be unable to attend. Those wishing to proceed by way of an inquiry session would list, additionally, the advocate or other person leading the case, the witnesses, and an estimate of how long it was expected to take to present the case, allowing for some questioning.
- 5 weeks after PIM (26 April 2005) – deadline for Council to confirm if, exceptionally, it wishes any objections which objectors are content to be dealt with by hearing, to be dealt with by means of an inquiry session.
- The Reporter will consider which topics might be suitable for round table sessions, and the Programme Officer will establish whether the Council and the relevant objectors are content to proceed in this way. Round table sessions will not be held unless all parties who wish to present oral evidence on the topic are agreeable to the procedure.

Having received this information, the Programme Officer will draw up the final programme, in consultation with the Reporter, and issue it to parties.

Once objectors (and the Council) have decided how they intend to present their case, they will not be permitted to 'trade up' (from written submissions to oral evidence, or from a hearing to an inquiry session).

If some objectors objecting to an issue want to proceed by written submissions, and others wish to be heard, the written submissions objections should be lodged as documents at the relevant session of the inquiry.

(2) documents

- 3 weeks after PIM (12 April 2005) – deadline for Council to lodge the list of *core documents*. The Council should produce as extensive a list as possible, and consider suggestions from objectors. If a document is identified as a core document, objectors may refer to it without having to lodge copies themselves. Core documents would be held for public display at central locations (possibly the Council’s planning or other office in Dingwall). Core documents would not normally be copied to objectors.
- 6 weeks before start of inquiry – deadline for all *documents* to be lodged. The Council will provide sets of core documents, and all other documents to which it intends to refer, at the identified central locations. The Council will send copies of relevant documents (other than core documents), via the Programme Officer, to the appropriate objectors and to the Reporter. It will retain a further set of documents for use at the inquiry. Objectors will send 5 copies of each document (other than core documents) to which they intend to refer to the Programme Officer (one for the Council’s use, two display copies, one for the inquiry venue, and one for the Reporter).
- It would be helpful for the Council to produce *position statements* on major topics, for lodging as inquiry documents.

(3) additional material for objections proceeding by way of inquiry sessions

- 6 weeks after PIM (3 May 2005) – deadline for lodging *statements of case* for each objection (or group of related objections).
- 3 weeks before start of inquiry – deadline for lodging *precognitions* (and *summary precognitions* if the main precognition exceeds 2000 words) for each witness, and for each objection (or group of related objections).

(4) additional material for objections proceeding by way of hearings

- 5 weeks before start of inquiry – deadline for lodging *statements of evidence*.
- The Reporter will draw up an agenda for each hearing, on the basis of the statements of evidence.

(5) additional material for objections proceeding by way of round table sessions

- 7 weeks before start of inquiry – For each round table session, the Reporter will provide a draft *issues paper* to the Council and relevant objectors. Parties will be given one week to suggest changes to the paper.
- 5 weeks before start of inquiry – Reporter will provide final issues papers.
- 3 weeks before start of inquiry – deadline for lodging *statements of evidence*.

(6) (optional) additional material for objections proceeding by way of written submissions

- 8 weeks before start of inquiry – deadline for submitting further written submissions.

The inquiry – dates and venue

17. It was agreed that the inquiry would probably start on 7 June 2005, so as to conclude proceedings before the main holiday period. All though a tight timetable, this is achievable with discipline, but it can be confirmed at the PIM. It is anticipated that the inquiry will last about four weeks.

18. It was agreed that the inquiry programme should be drawn up on the assumption that the inquiry would sit for 3½ days each week, from Tuesday morning to Friday lunchtime, allowing some flexibility for travel or site inspections.

19. The Council intends that the inquiry will be held in Dingwall, possibly in the academy. The venue selected should be accessible by public transport, have convenient parking, and have suitable disabled access. The hall should have good acoustics, heating and lighting. The furniture should be capable of being moved to create layouts suitable for inquiries, hearings and round table sessions. It would be helpful for the Reporter to be provided with a room within the venue building which he could use as an office for the duration of the inquiry.

The inquiry programme

20. The inquiry programme should be based on a number of principles, including the following:

- For any subject, e.g. housing, objections relating to strategic issues should be dealt with before objections relating to site-specific issues. Once strategic issues have been dealt with, it will generally be inappropriate to return to these issues at subsequent sessions dealing with specific sites.
- Where objections relate to competing sites, evidence relating to each site should generally only be dealt with at the session dealing with that site.
- Duplication of evidence and questioning should be avoided by encouraging like-minded objectors to present joint cases.
- Subject to the above points, it is desirable to minimise the number of times an objector has to appear at the inquiry.

21. At hearings, the Reporter will lead a discussion to ensure that he has understood the substance of each party's case. There will be no formal examination or cross-examination of witnesses, but parties can ask questions of each other, through the Reporter. Closing comments should be restricted to a few remarks, principally highlighting the modifications that are sought. It is anticipated that hearings will rarely last more than half a day.

22. At round table sessions, the procedures are broadly similar to those at a hearing. The Reporter will lead the discussion, going through each of the issues previously identified. Each party will have the opportunity to comment on other parties' evidence and to ask questions, through the Reporter. More formal closing submissions will sometimes be appropriate.

23. At formal inquiry sessions, the objector's witnesses are examined and cross-examined, and then the Council's witnesses are examined and cross-examined. Those leading the cases then make closing submissions.

Site inspections

24. The Reporter will inspect all sites that are the subject of objection. He intends to do this unaccompanied unless an accompanied inspection is specifically requested by the objector or the Council, or if he considers that the inspection ought to be accompanied – for example, where a site cannot be easily inspected from public land.

Clerical support

25. If hearing/RTS sessions are agreed, the reporter may ask the council to provide clerical support to assist in note taking.

Report format and electronic support

26. The report will be concise, and will include for each matter of objection, a brief description of the matter in dispute, brief summaries of the parties' cases, and the conclusions and recommendations. It will also contain a list of all recommended modifications, and lists of appearances and documents.

27. The Council or the Programme Officer will provide electronic lists of appearances and documents. The Council will provide electronic versions of its statements, precognitions, and closing submissions, and the Reporter will encourage objectors to do likewise.

28. The Reporter stated that the usual rule of thumb for the time to produce reports is 3 days writing for each day at inquiry, plus time for dealing with the objections proceeding by written submissions.

Other administrative arrangements

29. The Council is responsible for advertising the inquiry in the press, in accordance with the 1983 Regulations. The Council is reminded of the need to advertise the inquiry twice to accord with regulation 34, as qualified by regulation 2.

30. The Council is also responsible for advertising the PIM.

31. Mr Watt explained the arrangements for the payment of fees, on a monthly basis, and travel and subsistence allowances. The Council agreed to the Reporter's use of his own car for the duration of the inquiry.

32. The reporter will produce a note of the business meeting, which will be lodged as an inquiry document.

Trevor A Croft
Reporter

23 November 2004